

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

BRADLEY LYNCH)	
Claimant)	
VS.)	
)	Docket No. 213,232
FORD COUNTY)	
Respondent)	
AND)	
)	
EMC INSURANCE COMPANY)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier appeal from the Decision entered by Administrative Law Judge Pamela J. Fuller on October 21, 1999. The Appeals Board heard oral argument on March 22, 2000.

APPEARANCES

Lewis M. Reagan of Great Bend, Kansas, appeared on behalf of claimant. James M. McVay of Great Bend, Kansas, appeared on behalf of respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and adopted the stipulations listed in the Decision.

ISSUES

The ALJ found the claimant sustained repetitive trauma injuries from a series of accidents ending February 29, 1996, the last day claimant worked for respondent, and awarded benefits based on the stipulated 12 percent permanent partial disability. On appeal, respondent contends claimant is not entitled to workers compensation benefits because his injuries did not result from an accident that arose out of and in the course of his employment with respondent.

Claimant raised no additional issues, contending the ALJ's award should be affirmed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board concludes the Decision should be affirmed.

The Decision sets out findings of fact and conclusions of law in some detail and it is not necessary to repeat those herein. The Board agrees with and adopts as its own the findings and conclusions stated by the ALJ in her Decision, and specifically with the conclusion that claimant sustained injuries that arose out of and in the course of his employment with respondent.

Claimant, Bradley Lynch, worked as a sheriff's deputy for the Ford County Sheriff's Department for approximately five years. Before that, claimant worked as a police officer for the City of LaCrosse, Kansas. Claimant's job duties regularly included driving for extended periods of time. In February of 1995, claimant became involved part time in a used car sales and service business called One Stop Auto Sales (One Stop). As claimant's carpal tunnel syndrome symptoms began after the opening of this business, respondent contends that claimant's work at One Stop is the more likely cause of claimant's condition. Respondent disputes claimant's testimony concerning the limited amount of work he did at the car business and, in particular, the amount of hand intensive washing, waxing, and light mechanical work claimant performed. Judge Fuller found the greater weight of the credible testimony supported the conclusion that claimant's carpal tunnel condition most likely resulted from his work with respondent rather than his more limited activities at One Stop. The Appeals Board agrees.

Claimant testified that it was never his regular job to perform maintenance or detailing on the vehicles at the business. Claimant's wife did most of the cleaning of the vehicles and, during the period claimant's symptoms developed, there were other people working for One Stop who did most of the mechanical work. Claimant did do an occasional tire or oil change and did wash and wax some of the vehicles. Claimant also did some driving to pick up used cars for sale on the car lot, but claimant never did as much driving for the car lot as he did for respondent. Claimant testified that between February of 1995 when the auto sales business opened and February 29, 1996 when he ceased working for respondent, he changed approximately 15 tires, waxed between 15 and 20 vehicles and changed the oil in cars maybe three times. When claimant's description of his work activities was utilized, the greater weight of the medical opinion testimony is that this type and amount of activity was not as likely to cause or aggravate claimant's bilateral carpal tunnel syndrome as was his job with respondent. The same can be said of claimant's other personal activities including weight lifting and motorcycle riding.

Respondent argues that the medical opinions placing the primary causation for claimant's carpal tunnel syndrome with respondent were based upon incomplete or inaccurate histories. However, when these histories were augmented or supplemented at deposition, the opinions did not materially change.

The Appeals Board concludes, therefore, that it is more probably true than not true that claimant's job activities with respondent caused or aggravated his bilateral carpal tunnel syndrome condition.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Decision entered by Administrative Law Judge Pamela J. Fuller, dated October 21, 1999, should be, and is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of September 2000.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Lewis M. Reagan, Great Bend, KS
 James M. McVay, Great Bend, KS
 Pamela J. Fuller, Administrative Law Judge
 Philip S. Harness, Director